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UNCLAS SECTION 01 OF 02 HARARE 000743

SIPDIS

SENSITIVE

NSC FOR SENIOR AFRICA DIRECTOR J. FRAZER, TEITELBAUM
LONDON FOR C. GURNEY
PARIS FOR C. NEARY
NAIROBI FOR T. PFLAUMER

E.O. 12958: N/A

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SUBJECT: LEGISLATIVE ENVIRONMENT WORSENING

REF: HARARE 720

Summary

¶11. (SBU) The legislative environment in Zimbabwe continues to decline as Parliament's role in the law-making process is increasingly marginalized. To compound Parliament's ineffectiveness, it is likely to reduce its sittings during the next session as MPs hit the campaign trails, allowing continuation of the current trend of the Executive Office creating law via statutory instruments and without Parliamentary input. End Summary.

Lackluster Parliamentary Agenda

¶12. (U) Parliament's next sitting is scheduled to resume May 11, during which time it is expected to pass the Electoral Amendment Bill (Reftel). If Parliament does not pass the bill during the next sitting then, it likely will prior to the close of the session sometime in June. Other legislation that will be on the agenda includes:

--the Privileges Amendment Bill that, among other things, would fine MPs who miss, interrupt, or walk out on presidential addresses to Parliament, and protect judges and magistrates from being arrested or searched within the premises of any court of which they are judges, magistrates, or presidents;
--the Stock Theft Amendment Bill that would reintroduce a minimum sentence for theft of horses and cattle;
--the Administrative Justice Bill that claims to encourage efficient administration and good governance;
--the Securities Bill, which is the first bill written by a group outside the Ministries;
--the Balance of Payments Reporting bill that establishes another way to get foreign exchange from financial institutions and large scale exporters;
--and the Anti-Corruption Commission Bill establishing an Anti-Corruption Commission that would report to the Minister of Special Affairs for Anti-corruption and Anti-monopolies Didymus Mutasa.

The Privileges Amendment, Stock Theft Amendment, and Administrative Justice Bills received adverse reports from the Parliamentary Legal Committee (PLC), the committee responsible for ensuring the constitutionality of legislation.

Legislative Environment Deteriorating

¶13. (SBU) The broad consensus among major donors, outside experts who work with Parliament, and Post is that the legislative environment has deteriorated over the last few years despite the growing role of portfolio committees. There is no set legislative calendar, and Parliament's sitting schedule seems to be dictated by when Executive Orders are set to expire. Furthermore, many bills languish in Parliament unpassed, resurfacing session after session. The statutory instrument (S.I.) has become a popular means of law-making, mainly because they are not subject to the same procedural requirements as bills and are more effectively controlled by the executive. (Note: Statutory instruments originate in the Executive Office and do not need to go through the same parliamentary bill-making procedure, although they are subject to PLC review. They are effective immediately upon publication in the Government Gazette. S.I.'s generated under the Presidential Powers (Temporary Measures) Act expire after six months but other S.I.'s have an indefinite lifespan. End Note.) Prominent S.I.'s over the last five months include S.I. 273A of 2003 that authorizes agents of the Ministry of Lands to seize farm equipment and material from former commercial farmers; S.I. 37 and S.I. 41A of 2004 that take away the court's discretion on bail and

authorize the police to detain suspects for longer periods; and S.I. 18 of 2004 that grants the government-owned Tel*One telephone company a monopoly on international telecommunications services. All of these statutory instruments received adverse reports from the PLC.

ZANU-PF Disdain for Parliament

14. (U) Speaker of Parliament Emmerson Mnangagwa most likely summed up the party's attitude towards Parliament and a more inclusive parliamentary process with comments reported in the April 25 issue of *The Voice*, the ZANU-PF newspaper, in which he stated &our greatest challenge remains how to transform our party principles onto the parliamentary landscape so that the party and parliamentary democracy are indistinguishable.⁸ In the same article, Mnangagwa declared the Parliament undemocratic and in need of a &homegrown⁸ overhaul that would &espouse certain core values of the country.⁸

Comment

15. (SBU) ZANU-PF apparently is not satisfied with a substantial parliamentary majority that already assures it full control of the government's legislative agenda. The legislature's shrinking calendar and growing GOZ preference for statutory instruments instead of formal legislation may be driven in part by budgetary constraints and time sensitivities. Perhaps more significantly, however, it reflects executive mistrust of an institution that has constitutional authority to exert an independent, albeit limited, check on executive power. Certainly, increasing reliance on S.I.'s is a measure of the Parliament's increasing marginalization and irrelevance.

16. (SBU) The beleaguered Speaker's reported comments are notable in at least two respects. First, the overt partisanship is uncharacteristic in its extremism; since assuming the speakership, Mnangagwa had generally been supportive of the institution as a forum for debate and a place for the opposition, even as he assured the ruling party's dominant position and control of the agenda at all times. Mnangagwa had earlier also used the speakership position to seek to burnish his personal credentials nationally and internationally. His latest comments may reflect the precariousness of his position and his desire to project a holier-than-thou posture within the party as corruption investigations against him proceed. In any event, his comments are consistent with the ruling party's increasingly evident priority on making Zimbabwe effectively a one-party state. End Comment.

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